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BACKGRID USA, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BACKGRID USA, INC.,

Plaintiffs,

v.

HOLLYWOOD UNLOCKED, INC.,

Defendant.

Case No.: 2:18-cv-6384

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

Jury Trial Demanded

Plaintiff BackGrid USA, Inc., for its Complaint against defendant Hollywood Unlocked, Inc., alleges as follows:

1. This is an action for copyright infringement involving unauthorized use of photographic images on a massive scale. Defendant Hollywood Unlocked has repeatedly used large numbers of plaintiff's copyrighted images, without license, to draw attention to its news stories and viewers to its pages, thereby increasing its advertising income. Plaintiff now sues to put an end to this large-scale infringement.

JURISDICTION AND VENUE

2. This is an action for injunctive relief, statutory damages, monetary damages, and interest under the copyright law of the United States.

3. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 et seq.

1 11. *Rihanna Images*. The Rihanna Images are photographs of popular
2 singer, songwriter, and actress Rihanna.

- 3 a. Rihanna Image 1, depicting Rihanna wearing Burberry plaid, was
4 registered to BackGrid, with Registration No. VA 2 083 023 (eff.
5 Jan. 7, 2018), in compliance with the Copyright Act.
- 6 b. Rihanna Image 2, depicting Rihanna going to a restaurant in Santa
7 Monica, California, was registered to BackGrid, with Registration
8 No. VA 2 087 609 (eff. Feb. 5, 2018), in compliance with the
9 Copyright Act.
- 10 c. Rihanna Images 3 through 6, depicting Rihanna wearing a fuzzy red
11 cape on the streets of New York, were registered to AKM-GSI, with
12 Registration No. VA 2 050 264 (eff. Dec. 1, 2016), in compliance
13 with the Copyright Act. Copyright ownership was subsequently
14 transferred to BackGrid by assignment.

15 12. *Jaden Smith Images*. The Jaden Smith Images are photographs of
16 American actor, rapper, singer, and songwriter Jaden Smith.

- 17 a. Jaden Smith Image 1, depicting Smith with actress Odessa Adlon in
18 Los Angeles, was registered to BackGrid, with Registration No.
19 VA 2 085 991 (eff. Jan. 31, 2018), in compliance with the Copyright
20 Act.
- 21 b. Jaden Smith Image 2, depicting Smith with Adlon carrying groceries,
22 was registered to BackGrid, with Registration No. VA 2 087 613 (eff.
23 Feb. 5, 2018), in compliance with the Copyright Act.

24 13. *Robin Thicke Image*. The Robin Thicke Image is a photograph of
25 American singer, songwriter, and producer Robin Thicke with his girlfriend April
26 Love Geary in Hollywood. The Robin Thicke Image was registered to BackGrid,
27 with Registration No. VA 2 087 607 (eff. Feb. 5, 2018), in compliance with the
28 Copyright Act.

1 14. *Justin Timberlake Image*. The Justin Timberlake Image is a photograph
2 of popular singer and actor Justin Timberlake with actress Eiza González on the set
3 of a music video. The Justin Timberlake Image was registered to BackGrid, with
4 Registration No. VA 2 087 523 (eff. Jan. 12, 2018), in compliance with the Copyright
5 Act.

6 15. *Brooklyn Beckham Image*. The Brooklyn Beckham Image is a
7 photograph of author and celebrity Brooklyn Beckham out in New York City with
8 girlfriend Chloe Moretz. The Brooklyn Beckham Image was registered to BackGrid,
9 with Registration No. No. VA 2 087 606 (eff. Feb. 5, 2018).

10 16. *Amber Rose Images*. The Amber Rose Images are photographs of
11 American model and actress Amber Rose.

12 a. Amber Rose Image 1, depicting Rose with rapper 21 Savage, was
13 registered to BackGrid, with Registration No. VA 2 069 876 (eff.
14 Sept. 26, 2017), in compliance with the Copyright Act.

15 b. Amber Rose Image 2, depicting Rose at the beach with her son
16 Sebastian, was registered to BackGrid, with Registration VA
17 No. 2 084 115 (eff. Nov. 6, 2017), in compliance with the Copyright
18 Act.

19 17. *Beyoncé Images*. The Beyoncé Images are photographs of famous
20 singer, songwriter, and actress Beyoncé Knowles-Carter.

21 a. Beyoncé Image 1, depicting Beyoncé at the Vic Mensa album
22 release, was registered to BackGrid, with Registration No.
23 VA 2 060 678 (eff. Aug. 1, 2017), in compliance with the Copyright
24 Act.

25 b. Beyoncé Image 2, depicting Beyoncé at a baby shower, was
26 registered to AKM-GSI, with Registration No. VA 2 049 675 (eff.
27 May 26, 2017), in compliance with the Copyright Act. Copyright
28 ownership was subsequently transferred to BackGrid by assignment.

1 18. *Kardashian-Jenner Images*. The Kardashian-Jenner Images are
2 photographs of members of the social-media and reality-TV families the Kardashians
3 and the Jenners.

4 a. Kardashian-Jenner Image 1, depicting Kylie Jenner in red
5 sweatpants, black tee, and slippers, was registered to BackGrid, with
6 Registration No. VA 2 073 247 (eff. Oct. 26, 2017), in compliance
7 with the Copyright Act.

8 b. Kardashian-Jenner Image 2, depicting Kim Kardashian and Kris
9 Jenner out for lunch, was registered to BackGrid, with Registration
10 No. VA 2 104 626 (eff. May 8, 2018), in compliance with the
11 Copyright Act.

12 19. *Kerry Washington Image*. The Kerry Washington Image is a photograph
13 of actress Kerry Washington attending a party in a print dress. It was registered to
14 BackGrid, with Registration No. VA 2 073 589 (eff. Oct. 23, 2017), in compliance
15 with the Copyright Act.

16 20. *Justin Bieber Images*. The Justin Bieber Images are photographs of
17 Canadian singer and songwriter Justin Bieber.

18 a. Justin Bieber Image 1, depicting Bieber leaving a pool party, was
19 registered to BackGrid, with Registration No. VA 2 062 068 (eff.
20 Aug. 7, 2017), in compliance with the Copyright Act.

21 b. Justin Bieber Image 2, depicting Bieber wearing Billy Los Angeles
22 branding clothing, was registered to BackGrid, with Registration No.
23 VA 2 074 806 (eff. Oct. 10, 2017), in compliance with the Copyright
24 Act.

25 c. Justin Bieber Image 3, depicting Bieber with Selena Gomez, was
26 registered to BackGrid, with Registration No. VA 2 100 822 (eff.
27 Apr. 26, 2018), in compliance with the Copyright Act.
28

- d. Justin Bieber Image 4, depicting Bieber getting a smoothie after a workout, was registered to BackGrid, with Registration No. VA 2 097 280 (eff. Apr. 3, 2018), in compliance with the Copyright Act.
- e. Justin Bieber Image 5, depicting Bieber leaving church, was registered to BackGrid, with Registration No. VA 2 096 896 (eff. Mar. 26, 2018), in compliance with the Copyright Act.
- f. Justin Bieber Image 6, depicting Bieber at the scene of a car crash in West Hollywood, was registered to BackGrid, with Registration No. VA 2 107 363 (eff. June 14, 2018), in compliance with the Copyright Act.

21. *Kevin Hart Image*. The Kevin Hart Image is a photograph of actor and comedian Kevin Hart with actress Tiffany Hadish on the set of a movie. It was registered to BackGrid, with Registration No. VA 2 075 933 (eff. Nov. 6, 2017), in compliance with the Copyright Act.

22. *Zayn Malik Images*. The Zayn Malik Images are photographs of English singer and songwriter Zayn Malik.

- a. Zayn Malik Image 1, depicting him in a black jacket leaving a recording studio, was registered to BackGrid, with Registration No. VA 2 099 952 (eff. Apr. 23, 2018), in compliance with the Copyright Act.
- b. Zayn Malik Image 2, depicting him in a green jacket in Manhattan, was registered to BackGrid, with Registration No. VA 2 098 185 (eff. Apr. 10, 2018), in compliance with the Copyright Act.

23. *Foxx-Holmes Image*. The Foxx-Holmes Image is a photograph of American actor, singer, songwriter, record and film producer, and comedian Jamie Foxx and American actress Katie Holmes taking a stroll on the beach. The Foxx-

1 Holmes Image was registered to BackGrid, with Registration No. VA 2 084 114 (eff.
2 Dec. 4, 2017), in compliance with the Copyright Act.

3 24. *Hadid Image*. The Hadid Image is a photograph of American fashion
4 models Gigi and Bella Hadid. The Hadid Image was registered to BackGrid, with
5 Registration No. VA 2 098 175 (eff. Apr. 10, 2018), in compliance with the
6 Copyright Act.

7 25. *Kanye West Image*. The Kanye West Image is a photograph of American
8 rapper, singer, songwriter, record producer, entrepreneur, and fashion designer Kanye
9 West flashing a peace sign. It was registered to BackGrid, with Registration No.
10 VA 2 098 180 (eff. Apr. 10, 2018), in compliance with the Copyright Act.

11 26. *Britney Spears Image*. The Britney Spears Image is a photograph of
12 American singer, dancer, and actress Britney Spears wearing a yellow bathing suit at
13 the beach. It was registered to BackGrid, with Registration No. VA 2 098 191 (eff.
14 Apr. 10, 2018), in compliance with the Copyright Act.

15 27. *Halsey Image*. The Halsey Image is a photograph of American singer
16 and songwriter Halsey, with her boyfriend G Eazy. It was registered to BackGrid,
17 with Registration No. VA 2 097 272 (eff. Apr. 3, 2018), in compliance with the
18 Copyright Act.

19 28. *Miley Cyrus Image*. The Miley Cyrus Image is a photograph of
20 American singer, songwriter, and actress Miley Cyrus hiking. It was registered to
21 BackGrid, with Registration No. VA 2 093 299 (eff. Feb. 26, 2018), in compliance
22 with the Copyright Act.

23 29. *Selena Gomez Image*. The Selena Gomez Image is a photograph of
24 American singer, actress, and producer Selena Gomez out with Canadian singer,
25 songwriter and record producer The Weeknd. It was registered to AKM-GSI, with
26 Registration No. VA 2 050 055 (eff. Jan. 12, 2017), in compliance with the Copyright
27 Act. Copyright ownership was subsequently transferred to BackGrid by assignment.
28

1 30. *Taylor Swift Image*. The Taylor Swift Image is a photograph of
2 American singer-songwriter Taylor Swift out to dinner with Scottish DJ and record
3 producer Calvin Harris. It was registered to AKM-GSI, with Registration No.
4 VA 2 013 932 (eff. May 22, 2016), in compliance with the Copyright Act. Copyright
5 ownership was subsequently transferred to BackGrid by assignment.

6 31. *Wiz Khalifa Image*. The Wiz Khalifa Image is a photograph of American
7 rapper, singer-songwriter, and actor Wiz Khalifa out with his son and his girlfriend
8 Izabela Guedes. It was registered to BackGrid, with Registration No. VA 2 097 275
9 (eff. Apr. 3, 2018), in compliance with the Copyright Act.

10 32. *OBJ Image*. The OBJ Image is a photograph of NFL football player
11 Odell Beckham Jr. arriving to an event in New York. It was registered to BackGrid,
12 with Registration No. VA 2 093 219 (eff. Mar. 1, 2018), in compliance with the
13 Copyright Act.

14 33. *Victor Cruz Image*. The Victor Cruz Image is a photograph of NFL
15 football player Victor Cruz in a blue suit. It was registered to BackGrid, with
16 Registration No. VA 2 110 518 (eff. July 18, 2018), in compliance with the
17 Copyright Act.

18 34. *Tyga Image*. The Tyga Image is a photograph of American hip hop artist
19 Tyga walking down the street with an umbrella. It was registered to BackGrid, with
20 registration No. VA 2 107 372 (eff. June 11, 2018), in compliance with the Copyright
21 Act.

22 35. *Christina Milian Image*. The Christina Milian Image is a photograph of
23 American actress, singer, and songwriter Christina Milian walking down the street in
24 denim. It was registered to BackGrid, with registration No. VA 2 105 292 (eff.
25 June 4, 2018), in compliance with the Copyright Act.

26 36. *Chrissy Teigen Image*. The Chrissy Teigen Image is a photograph of
27 American model Chrissy Tiegen pushing a baby stroller. It was registered to
28

1 BackGrid, with Registration No. VA 2 103 060 (eff. May 16, 2018), in compliance
2 with the Copyright Act.

3 37. The Photographs were licensed for limited use and published in various
4 media outlets on or about the date of their creation.

5 38. Plaintiffs never licensed any of the Photographs to defendant.
6 Nevertheless, defendant has used, and continue to use, the Photographs without
7 authorization or permission from plaintiffs to do so.

8 **B. Defendant's Unauthorized Uses**

9 39. Defendant owns and operates the website located and accessible at
10 www.thehollywoodunlocked.com, as well as the Instagram account
11 @hollywoodunlocked. According to the profile page of the Instagram account,
12 defendant receives "700M+ Impressions Monthly."

13 40. Defendant is a commercial endeavor. Its Instagram profile contains a
14 direct link for advertisers, stating: "Advertising & Contact Email Below." It also sells
15 apparel: the Instagram profile includes a connection to the apparel account
16 @thehuapparel.

17 41. In addition, defendant's website features third-party advertisements by
18 prominent business entities offering products and services, such as E*Trade, Volvo,
19 Holiday Inn, Hyatt, and others.

20 42. On information and belief, all or a significant part of defendant's
21 revenue is ad-based, including native-advertising placement and sponsored posts.
22 Accordingly, defendant earns more income when the number of viewers who sees its
23 web pages increases. Defendant has the incentive to draw more viewers to its website
24 by featuring content that is visually interesting, such as by using plaintiffs'
25 Photographs.

26 43. Plaintiff never licensed the Photographs to defendant. Instead, defendant
27 has used, and continues to use, the Photographs on its website and its Instagram
28

1 account by prominently featuring the Photographs to promote articles and content
2 and drive viewership.

3 44. Defendant used Rihanna Image 1 by copying it and displaying it on
4 Instagram on October 10, 2017.

5 45. Defendant used Rihanna Image 2 by copying it and displaying it on
6 Instagram on November 12, 2017.

7 46. Defendant used Rihanna Images 3 through 6 by copying them and
8 displaying them on its website on September 5, 2016, at the following URL:
9 <http://thehollywoodunlocked.com/furry-love-is-in-the-air-for-rihanna/>. The article at
10 this URL, featuring Rihanna Images 3 through 6, states that it is “By Jeroslyn
11 Johnson.” On information and belief, on September 5, 2016, Jeroslyn Johnson was
12 employed by defendant.

13 47. Defendant used Jaden Smith Image 1 by copying it and displaying it on
14 Instagram on November 3, 2017.

15 48. Defendant used Jaden Smith Image 2 by copying it and displaying it on
16 Instagram on November 8, 2017.

17 49. Defendant used the Robin Thicke Image by copying it and displaying it
18 on Instagram on November 14, 2017.

19 50. Defendant used the Justin Timberlake Image by copying it and
20 displaying it on Instagram on November 18, 2017.

21 51. Defendant used the Brooklyn Beckham Image by copying it and
22 displaying it on Instagram on November 11, 2017.

23 52. Defendant used Amber Rose Image 1 by copying it and displaying it on
24 Instagram on June 29, 2017.

25 53. Defendant used Amber Rose Image 2 by copying it and displaying it on
26 Instagram on August 19, 2017.

27 54. Defendant used Beyoncé Image 1 by copying it and displaying it on
28 Instagram on July 14, 2017.

1 55. Defendant used Beyoncé Image 2 by copying it and displaying it on its
2 website on May 21, 2017, at the following URL:
3 <http://thehollywoodunlocked.com/beyonce-second-baby-shower/>. The article at this
4 URL, featuring Beyoncé Image 2, states that it is “By Nycole Hutchens.” On
5 information and belief, on May 21, 2017, Nycole Hutchens was employed by
6 defendant.

7 56. Defendant used Kardashian-Jenner Image 1 by copying it and displaying
8 it on Instagram on August 8, 2017.

9 57. Defendant used Kardashian-Jenner Image 2 by copying it and displaying
10 it on Instagram on February 10, 2018.

11 58. Defendant used the Kerry Washington Image by copying it and
12 displaying it on Instagram on July 31, 2017.

13 59. Defendant used Justin Bieber Image 1 by copying it and displaying it on
14 Instagram on August 4, 2017.

15 60. Defendant used Justin Bieber Image 2 by copying it and displaying it on
16 Instagram on September 22, 2017.

17 61. Defendant used Justin Bieber Image 3 by copying it and displaying it on
18 Instagram on February 15, 2018.

19 62. Defendant used Justin Bieber Image 4 by copying it and displaying it on
20 Instagram on January 4, 2018.

21 63. Defendant used Justin Bieber Image 5 by copying it and displaying it on
22 Instagram on March 22, 2018.

23 64. Defendant used Justin Bieber Image 6 by copying it and displaying it on
24 March 24, 2018, at the following URL: [https://thehollywoodunlocked.com/justin-](https://thehollywoodunlocked.com/justin-bieber-involved-in-a-car-accident-in-west-hollywood/)
25 [bieber-involved-in-a-car-accident-in-west-hollywood/](https://thehollywoodunlocked.com/justin-bieber-involved-in-a-car-accident-in-west-hollywood/). The article at this URL,
26 featuring Justin Bieber Image 6, states that it is “By Kecia Gayle.” On information
27 and belief, on March 24, 2018, Kecia Gayle was employed by defendant.
28

1 65. Defendant used the Kevin Hart Image by copying it and displaying it on
2 Instagram on September 30, 2017.

3 66. Defendant used Zayn Malik Image 1 by copying it and displaying it on
4 Instagram on January 26, 2018.

5 67. Defendant used Zayn Malik Image 2 by copying it and displaying it on
6 Instagram on January 10, 2018.

7 68. Defendant used the Foxx-Holmes Image by copying it and displaying it
8 on April 13, 2017, at the following URL: [www.thehollywoodunlocked.com/are-](http://www.thehollywoodunlocked.com/are-jamie-foxx-and-katie-holmes-finally-making-their-relationship-public/)
9 [jamie-foxx-and-katie-holmes-finally-making-their-relationship-public/](http://www.thehollywoodunlocked.com/are-jamie-foxx-and-katie-holmes-finally-making-their-relationship-public/). The article at
10 this URL, featuring the Foxx-Holmes Image, states that it is “By Krysti Mobley.” On
11 information and belief, on April 13, 2017, Krysti Mobley was employed by
12 defendant.

13 69. Defendant used the Foxx-Holmes Image a second time by copying it and
14 displaying it on September 6, 2017 at the following URL:
15 [www.thehollywoodunlocked.com/flirtalert-jamie-foxx-and-katie-holmes-finally-go-](http://www.thehollywoodunlocked.com/flirtalert-jamie-foxx-and-katie-holmes-finally-go-public-with-their-romance/)
16 [public-with-their-romance/](http://www.thehollywoodunlocked.com/flirtalert-jamie-foxx-and-katie-holmes-finally-go-public-with-their-romance/). The article at this URL, featuring the Foxx-Holmes
17 Images, states that it is “By Jeroslyn Johnson.” On information and belief, on
18 September 6, 2017, Jeroslyn Johnson was employed by defendant.

19 70. Defendant used the Hadid Image by copying it and displaying it on
20 Instagram on January 12, 2018.

21 71. Defendant used the Kanye West Image by copying it and displaying it
22 on Instagram on January 11, 2018.

23 72. Defendant used the Britney Spears Image by copying it and displaying it
24 on Instagram on January 13, 2018.

25 73. Defendant used the Halsey Image by copying it and displaying it on
26 Instagram on January 6, 2018.

27 74. Defendant used the Miley Cyrus Image by copying it and displaying it
28 on Instagram on December 19, 2017.

1 75. Defendant used the Selena Gomez Image by copying it and displaying it
2 on its website on or about January 11, 2017. The article featuring the Selena Gomez
3 Image was subsequently taken down but is available at the following archive URL:
4 [https://web.archive.org/web/20170112013247/https://thehollywoodunlocked.com/mo](https://web.archive.org/web/20170112013247/https://thehollywoodunlocked.com/move-over-bella-hadid-selena-gomez-was-spotted-kissing-the-weeknd-pics/)
5 [ve-over-bella-hadid-selena-gomez-was-spotted-kissing-the-weeknd-pics/](https://web.archive.org/web/20170112013247/https://thehollywoodunlocked.com/move-over-bella-hadid-selena-gomez-was-spotted-kissing-the-weeknd-pics/). The article
6 states that it is “By Admin: Rivet Soro.” On information and belief, on January 11,
7 2017, Rivet Soro was employed by defendant.

8 76. Defendant used the Taylor Swift Image by copying it and displaying it
9 on its website on April 12, 2016, at the following URL:
10 <http://thehollywoodunlocked.com/taylor-swifts-perfect-date-night-outfit/>. The article
11 at this URL, featuring the Taylor Swift Image, states that it is “By Alexyz Liggins.”
12 On information and belief, on April 12, 2016, Alexyz Liggins was employed by
13 defendant.

14 77. Defendant used the Wiz Khalifa Image by copying it and displaying it
15 on Instagram on January 6, 2018.

16 78. Defendant used the OBJ Image by copying it and displaying it on
17 Instagram on December 5, 2017.

18 79. Defendant used the Victor Cruz Image by copying it and displaying it on
19 Instagram on April 20, 2018.

20 80. Defendant used the Tyga Image by copying it and displaying it on
21 Instagram on March 15, 2018.

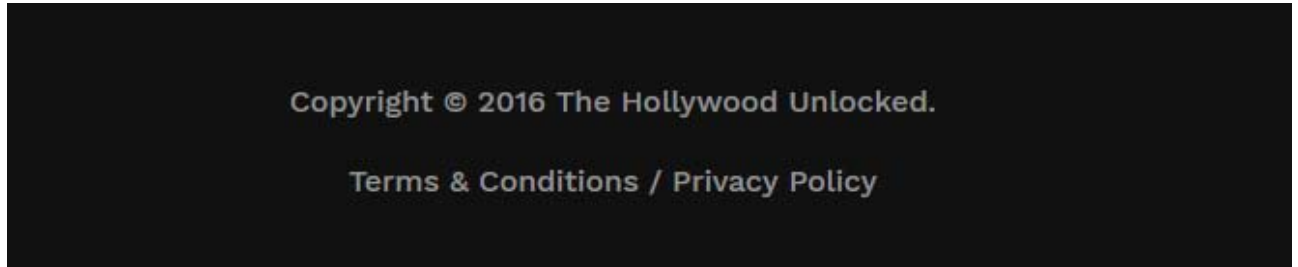
22 81. Defendant used the Christina Milian Image by copying it and displaying
23 it on Instagram on March 9, 2018.

24 82. Defendant used the Chrissy Teigen Image by copying it and displaying it
25 on Instagram on February 20, 2018.

26 **C. Facts That Support A Finding of Willful Infringement**

27 83. At the time that defendant copied and distributed the Photographs, it
28 knew or should have known that it did not have authorization or permission to do so.

1 84. More specifically, defendant is aware of the importance of copyright
2 protection. This is demonstrated on defendant's website itself, which contains a
3 copyright notice, © The Hollywood Unlocked, for example as shown below.



10 85. Further, defendant's awareness of the importance of copyright protection
11 as it pertains to the rights of third parties is demonstrated by the following language
12 that appeared on defendant's website at all relevant times, along with other language
13 that:

14 Do not use any User Generated Content that belongs to
15 other people and pass it off as your own. This includes
16 any content that you might have found elsewhere on the
17 Internet.

18 86. Moreover, at least some of the Photographs were copied and displayed
19 by defendant with copyright management information on the image showing that the
20 image was owned and copyrighted by plaintiffs. This demonstrates defendant's
21 awareness not just that the Photographs were copyrighted but that the copyright was
22 owned by someone else.

23 87. Finally, BackGrid put defendant on notice of its infringing conduct over
24 seven months ago, but the infringement continued. BackGrid's agent for copyright
25 enforcement sent a letter to defendant on December 13, 2017, notifying defendant
26 that it was not authorized to post the Kevin Hart Image and Justin Bieber Image 2.
27 Defendant acknowledged the letter and removed the two photos, but it continued to
28 use BackGrid's images on the Hollywood Unlocked website and Instagram.

88. Despite its awareness of plaintiff's rights under the Copyright laws, defendant acted with at least reckless disregard for, or willful blindness to, plaintiff's rights under the Copyright laws. On information and belief, defendant did not pay a license fee, inquire as to the availability of a license, do any work to confirmed that the Photographs were authorized to be copied and displayed, or clear the Photographs for use on defendant's Instagram or website.

CLAIM ONE

(For Copyright Infringement)

89. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth here.

90. The foregoing acts of defendant constitute infringement of plaintiff's copyrights in the Photographs in violation of 17 U.S.C. §§ 501 et seq.

91. Plaintiff suffered damages as a result of defendant's unauthorized use of the Photographs.

92. Plaintiff is informed and believes and on that basis alleges that defendant's acts of copyright infringement, as alleged above, were willful, intentional, and malicious, which further subjects defendant to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to \$150,000 per infringement. Within the time permitted by law, plaintiff will make its election between actual damages and statutory damages.

CLAIM TWO

(For Vicarious and/or Contributory Copyright Infringement)

93. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth here.

94. Plaintiff is informed and believes and on that basis alleges that defendant knowingly induced, participated in, aided and abetted in, and profited from the unauthorized reproduction and/or subsequent distribution of the Photographs.

95. Defendant, and each of them, are vicariously liable for the infringement alleged above because, on information and belief, they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.

96. By reason of each of the defendant's acts of contributory and vicarious infringement as alleged above, plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

97. Plaintiff is informed and believes and on that basis alleges that defendant's acts of copyright infringement, as alleged above, were willful, intentional, and malicious, which further subjects defendant to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to \$150,000 per infringement. Within the time permitted by law, plaintiff will make its election between actual damages and statutory damages.

CLAIM THREE

**(For Alteration of Copyright Management Information in Violation of
17 U.S.C. 1202)**

98. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth here.

99. On information and belief, defendant, or someone working on its behalf, removed CMI from the Photographs without authorization of plaintiff or the law and then distributed the Photographs, with the CMI removed, without the authorization of plaintiff or the law.

100. On information and belief, defendant's removal of the CMI from the Photographs was intentional, and defendant's distribution of the Photographs was with knowledge that the CMI had been removed without authorization.

101. Defendant's actions alleged above constitute a violation of 17 U.S.C.
§ 1202.

1 102. Plaintiff has suffered damages as a result of defendant's violation of
2 17 U.S.C. § 1202.

3 103. Within the time permitted by law, plaintiff will make its election
4 between actual damages and statutory damages.

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, plaintiff requests the following:

7 A. For a preliminary and permanent injunction against defendant and
8 anyone working in concert with them from further copying, displaying, distributing,
9 selling, or offering to sell plaintiff's Photographs described in the Complaint;

10 B. For an order requiring defendant to account to plaintiff for its profits and
11 any damages sustained by plaintiff arising from the acts of infringement;

12 C. Under 17 U.S.C. § 503, for impoundment of all copies of the
13 Photographs used in violation of plaintiff's copyrights—including digital copies or
14 any other means by which they could be used again by defendant without plaintiff's
15 authorization—as well as all related records and documents;

16 D. For actual damages and all profits derived from the unauthorized use of
17 plaintiff's Photographs or, where applicable and at plaintiff's election, statutory
18 damages;

19 E. Under 17 U.S.C. § 1203, for actual damages for the unauthorized
20 alteration or removal of copyright information or, where applicable and at plaintiff's
21 election, statutory damages of not less than \$2,500 or more than \$25,000.

22 F. For an award of pre-judgment interest as allowed by law;

23 G. For reasonable attorney fees;

24 H. For court costs, expert witness fees, and all other costs authorized under
25 law;

26 I. For such other and further relief as the Court deems just and proper.
27
28

JURY TRIAL DEMAND

Plaintiff demands a trial by jury of all issues permitted by law.

Dated: July 24, 2018

Respectfully submitted,

PERKOWSKI LEGAL, PC

By: /s/ Peter Perkowski

Peter E. Perkowski

Attorneys for Plaintiff
BACKGRID USA, INC.